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IN THE

Supreme Court of the United States

Office-Supreme Court, U.S.
FILED

JUN 3 1963

JOHN F. DAVIS, CLERK

October Term, 1962

No. 13 Original

STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW JERSEY, ET AL.,

Defendants,

and

STATE OF FLORIDA,

Intervenor.

MOTION FOR LEAVE TO INTERVENE
(STATE OF FLORIDA).

and

ANSWER OF THE STATE OF FLORIDA
AS INTERVENOR.

RICHARD W. ERVIN,
Attorney General
of Florida,

FRED M. BURNS,
Assistant Attorney General
of Florida,
Capitol Building,
Tallahassee, Florida

ATTORNEYS FOR THE STATE
OF FLORIDA, INTERVENOR.

IN THE
Supreme Court of the United States

October Term, 1962

No. 13 Original

STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW JERSEY, ET AL.,

Defendants.

**MOTION FOR LEAVE TO INTERVENE
(STATE OF FLORIDA)**

The State of Florida, a sovereign state of the United States of America, by and through its Attorney General, moves the Court for an order permitting it to intervene in the above entitled cause, and permitting its proposed Answer of Intervention, annexed hereto, to be filed as the Answer of Intervention of the State of Florida in this action, because:

1. This intervenor would doubtless be bound by the judg²

ment or decree to be entered in this cause, and the representation of the state's interest by the existing parties to the action may be inadequate.

2. The claims and defenses of this intervenor, and those of the states of Texas, New Jersey, and Pennsylvania, parties to the main proceedings herein, have questions of law and fact in common.

3. Rapidly multiplying state statutes and laws for the escheat and custody of abandoned and unclaimed property, originally applying only to land and other tangible things, have moved into the field of intangible personal property, thereby raising issues as to the right to the possession and custody of escheated or abandoned intangible personal property as between the states of the residence of the creditor and of the debtor and the creditor, as well as where the evidence of the intangible is held or located. In many instances two or more states lay claim to and the right of possession to the same debt or obligation constituting an intangible and the right to escheat the same to the state.

4. The cases of Connecticut Mutual Insurance Company v. Moore, 333 U. S. 541, 68 S. Ct. 682, 92 L. Ed. 863, and Standard Oil Company v. New Jersey, 341 U. S. 428, 71 S. Ct. 822, 95 L. Ed. 1078, appear to form the basis for two or more states laying claim to the same item of intangible personal property under their respective escheat or custodial statutes and laws relating to intangible personal property, and claiming the right to escheat the same to each of said states.

5. This Court, in Western Union Telegraph Company v. Pennsylvania, 368 U. S. 71, 82 S. Ct. 199, 7 L. Ed. 139, seems to have recognized the difficulties presented by the above two

cases mentioned in paragraph "4" above, and suggested the procedure to resolve the same.

Other states, particularly California and Massachusetts, have expressed an interest in this litigation and a possible desire to join in this intervention. The State of Florida hereby gives her consent to such a joinder, and petitions the court for an order permitting such intervention by the filing of a declaration of joinder and the filing of a list of their interests like or similar to Florida's Exhibit "A" attached to her intervention pleading.

**RICHARD W. ERVIN, as
Attorney General
of Florida**

**FRED M. BURNS, as
Assistant Attorney General
of Florida,**

**Capitol Building
Tallahassee, Florida.**

**ATTORNEYS FOR THE STATE
OF FLORIDA, INTERVENOR.**

IN THE
Supreme Court of the United States

October Term, 1962

No. 13 Original

STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW JERSEY, ET AL.,

Defendants,

and

STATE OF FLORIDA,

Intervenor.

**ANSWER OF THE STATE OF FLORIDA
AS INTERVENOR.**

The STATE OF FLORIDA, a sovereign state, intervenor herein, for its pleading in intervention, says that:

1. It admits the allegations of fact in paragraphs numbered "I," "II," "III," "IV," "V" and "VI" of the Complaint herein.

2. It is without actual knowledge of the matters of fact alleged in and by paragraphs numbered "VII," "VIII," "IX,"

"X," "XI," and "XII" of the Complaint herein; however, for the purposes of this litigation only, they are admitted.

3. The allegations of paragraphs numbered "XIII," "XIV," and "XV" of the Complaint herein raise issues of law, based on facts otherwise alleged in the said Complaint, as to the situs of abandoned or escheated personal property for the purpose of taking possession of such property and making disposition thereof.

4. It admits the allegations of fact in paragraphs numbered "XVI," "XVII," "XVIII," and "XIX" of the Complaint herein; except that the State of Florida, as intervenor, claims the same rights and remedies as does the State of Texas as to properties subject to escheat or custody by the State of Florida under applicable facts and circumstances, and laws and statutes applicable thereto.

5. The State of Florida, for the purposes of its claim as to the properties hereinafter set out and described, and any claim the States of Texas, New Jersey, Pennsylvania, or any other state, may have or make against such properties hereby adopts and repeats the allegations of fact of the plaintiff in its Complaints herein, insofar as the same may be applied to the rights and interests of the State of Florida in this litigation.

6. The Sun Oil Company, one of the defendants herein, under and pursuant to the terms and requirements of Chapter 61-10, Laws of Florida, Acts of 1961, also referred to as Chapter 717, Florida Statutes, 1961, known and referred to as the Florida disposition of unclaimed property act or statute, made return of certain unclaimed or abandoned properties, within the purview of the said statutes, held by it, to the Comptroller of the State of Florida, who is charged with the administration of the said Florida unclaimed property statutes, which statutes

are substantially identical with the Uniform Disposition of Unclaimed Property Act, as approved by the National Conference on Uniform Laws in 1955. This unclaimed or abandoned property was fully identified to the Attorney General of Florida, by the defendant Sun Oil Company, by its letter dated November 6, 1962, signed by its agent Tom E. Bryan, a copy of which letter is hereby attached as Florida's Exhibit "A" and made a part hereof by reference.

7. The Sun Oil Company, a New Jersey corporation, one of the defendants herein, is alleged, in paragraph numbered "V" of the Complaint herein, to be a New Jersey corporation, under whose statutes and laws said corporation is required to have and maintain within the said State of New Jersey a principal place of business; and, as further alleged in said paragraph numbered "V," also maintains business offices within the States of Pennsylvania and Texas, in addition to the said principal place of business in New Jersey. We are not advised from which of the said three company offices were issued the uncashed checks and other intangibles described and set out in Florida's Exhibit "A" hereto attached and made a part hereof by reference. Where such uncashed checks or other intangible were issued in either Pennsylvania or Texas, or were issued in New Jersey, and are payable to a payee or obligee having his domicile in a state other than New Jersey, Pennsylvania or Texas, two or more states, including the state of the domicile of the payee or obligee, find basis for claiming the escheat or possession of the same obligation under their respective statutes and laws. The Sun Oil Company should not be required to make payment of the same obligation to two or more statutes. The issue arises as to which of the said states is entitled to escheat or possession of the unclaimed or abandoned intangible obligation. Florida claims that escheat or possession should be by the state of the domicile or residence of the payee or obligee.

WHEREFORE, the STATE OF FLORIDA, intervenor herein, prays that:

A. This Court take jurisdiction of the parties and subject matter of this litigation.

B. This Court hear and determine the controversy between the parties, including this intervenor, either by referring this case to a Master in Chancery, or a Federal District Court, or in such other matter as the Court deems appropriate, for findings of fact and law and recommendations to this Court.

C. A decree be entered adjudging which state is entitled to escheat or take possession of unclaimed or abandoned intangible obligations or property, where the same is issued through the home office of a corporation to a payee or obligee domiciled in another state; also where issued through a business office of a corporation, located in a state other than that of incorporation, to a payee or obligee domiciled in, or residing in, a third state.

D. A decree be entered adjudging which state is entitled to escheat or take possession of unclaimed or abandoned intangible obligations or property where the domicile or residence of the payee or obligee is unknown; including claims by states wherein such a corporation was incorporated as well as other states where in it may maintain business offices.

RICHARD W. ERVIN, as Attorney
General of Florida.

FRED M. BURNS, as Assistant
Attorney General of Florida,
Capitol Building,
Tallahassee, Florida

ATTORNEYS FOR THE STATE
OF FLORIDA, INTERVENOR.

SUN OIL COMPANY

SOUTHERN DIVISION
LEGAL DEPARTMENT

P. O. Box 2880
DALLAS 21, TEXAS

November 6, 1962

Hon. Richard W. Irvin
Attorney General of Florida
State Capitol
Tallahassee, Florida

Re: State of Texas vs. Sun Oil Co., et al

Dear Mr. Irvin:

I am informed that the State of Florida contemplates intervening in the above case now pending before the Supreme Court of the United States and that you desire a list of the items reported to Texas held for the last fifteen years payable to persons whose last known addresses were in Florida.

Our cashed list furnished to the State of Texas shows the following uncashed checks issued by Sun Oil Company, Southwest Division, at Dallas, Texas:

Item No.	Page	Name & Address	Amount	Date
201	8	C. B. Allen & Wife, Roxie Bushnell, Florida	\$10.00	No date
236	9	G. C. Cannon Branford, Florida	14.66	8-20-47
265	10	H. E. Dickens Benton Springs, Florida	.04	1-27-41
290	11	E. N. Goodbread, et ux Lake City, Florida	23.00	7- 4-47
291	11	J. N. Grainger, et ux Felda, Florida	4.00	12-14-42
312	12	E. S. Hull and Sallie Felda, Florida	1.00	3-27-40
380	14	Clemmie Robinson Sneads, Florida	25.00	No date
389	15	Lottie V. Scott	17.00	1-31-46
390	15	937 N.W. 23rd Ave. Miami, Florida	17.00	1- 7-46

There were some other items reported to the State of Texas which are less than 15 years old because Texas required a filing of all items 7 years old.

Hoping the foregoing information is satisfactory, I am

Yours very truly,
TOM E. BAYAN

TEB:clc

cc: Mr. John Leech
Philadelphia Office
Mr. Henry A. Frye
Pepper, Hamilton & Scheetz
Fidelity-Philadelphia Trust Bldg.
Philadelphia 9, Pa.
Mr. Charles D. Freeman
Dallas Office

Exhibit A

PROOF OF SERVICE

I, Richard W. Ervin, Attorney General of Florida, one of the attorneys for the State of Florida, petitioner herein, and member of the Bar of the Supreme Court of the United States, hereby certify that on January , 1963, I served copies of the foregoing Motion for Leave to Intervene in this cause, together with Florida's proposed intervention answer, on each of the following parties and persons by depositing said copies in a United States post office or mail box, with first class or air mail postage prepaid and addressed as follows:

Honorable Will Wilson
Attorney General of Texas
Courts Building
Austin 11, Texas

Honorable Arthur J. Sills
Attorney General of New Jersey
State Capitol
Trenton, New Jersey

Honorable David Stahl
Attorney General of Pennsylvania
State Capitol
Harrisburg, Pennsylvania

Honorable Henry A. Frye
Pepper, Hamilton & Scheetz
2001 Fidelity-Philadelphia Trust Building
Philadelphia 9, Pennsylvania

Honorable Stanley Mosk
Attorney General of California
State Building
San Francisco 2, California

Honorable Edward J. McCormack, Jr.
Attorney General of Massachusetts
State House
Boston, Massachusetts

Honorable H. Powell Yates
Third Vice President
Metropolitan Life Insurance Company
One Madison Avenue
New York 10, New York

Honorable Peter F. Oates
Assistant Attorney General
Western Union Telegraph Company
60 Hudson Street
New York 13, New York

I further certify that copies of the said Motion for Leave to Intervene and proposed intervention answer have also been served on the states named in paragraph VI of the plaintiff's Complaint by depositing copies thereof in a United States post office or mail box, addressed to the Attorneys General of each of the said states, with first class or air mail postage prepaid.

RICHARD W. ERVIN
Attorney General of Florida
Capitol Building
Tallahassee, Florida

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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

October Term, 1961.

No. 13 Original.

STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW JERSEY, et al.,

Defendants.

**BRIEF OF DEFENDANT, SUN OIL COMPANY, IN
SUPPORT OF MOTION OF STATE OF FLORIDA
FOR LEAVE TO INTERVENE**

HENRY A. FRYE,

PEPPER, HAMILTON & SCHEETZ,

2001 Fidelity-Philadelphia Trust Bldg.,

Philadelphia 9, Penna.,

*Attorney for Defendant, Sun Oil
Company, 1608 Walnut Street,
Philadelphia 3, Penna.*

IN THE
Supreme Court of the United States.

October Term, 1961.

No. 13 ORIGINAL

STATE OF TEXAS,

Plaintiff.

v.

STATE OF NEW JERSEY, ET AL.

Defendants.

**BRIEF OF DEFENDANT, SUN OIL COMPANY, IN
SUPPORT OF MOTION OF STATE OF FLORIDA
FOR LEAVE TO INTERVENE**

I. STATEMENT OF THE CASE.

This is an original proceeding in which the State of Texas has sued the States of New Jersey and Pennsylvania seeking a resolution of the conflicting claims of these three States to certain unclaimed debts and other property in the custody of Sun Oil Company, a named defendant, which is a New Jersey corporation with its principal office in Pennsylvania and which is qualified to do business in the State of Texas. This Court has taken jurisdiction and the State of Florida has now filed a motion for leave to intervene and a proposed answer to the complaint of the State of Texas.

II. ARGUMENT.

The motion and answer of the State of Florida establish that the last known addresses of certain obligees of debts owed by Sun and reported to Texas are in the State of Florida. Florida claims that escheat or possession of unclaimed or abandoned intangible obligations should be by the State of the domicile or residence of the payee or obligee. In its answer Sun Oil Company, referring to the property claimed by Texas, stated in part (at Paragraph XI):

"Sun Oil Company can neither admit nor deny that the situs of such property and jurisdiction thereof for the purposes of escheat lies in Texas or in any other State, in view of the adverse claims of defendant States of New Jersey and Pennsylvania and the possible claims of other States to this and other similar property, and reserves to itself the right to claim any offsets, counterclaims, limitations or other defenses it may have under the custodial, abandoned property or escheat laws of the State or States determined to have jurisdiction."

In Paragraph XI of its answer Sun Oil Company states its position further as follows:

"As to the intangible personal property referred to in Paragraph XVI, this defendant admits that it is in real, actual and imminent danger of being compelled by the courts of more than one State to deliver all or a portion or portions of such property to those States, without protection from the claims of other States, and therefore, submits to the jurisdiction of this Court for the purpose of disposing of the conflicting claims of plaintiff, of the other defendants and of the several other States which are notified of this proceeding."

By the filing of its motion for leave to intervene, Florida has joined Texas, New Jersey and Pennsylvania in actively asserting claims to property in the custody of Sun Oil Company. The claim of Florida should be adjudicated together with the claims of the other States already parties to the action in order that Sun-Oil Company may not be subjected to multiple suits or be compelled by the courts of more than one State to deliver all or a portion of the unclaimed property in its possession to those States.

Therefore, and in accordance with the doctrine announced by this Court in *Western Union Co. v. Pennsylvania*, 368 U. S. 71 (1961), defendant Sun Oil Company joins in the motion of the State of Florida for leave to intervene in these proceedings.

Respectfully submitted,

HENRY A. FRYE,

*Attorney for Defendant,
Sun Oil Company.*

PROOF OF SERVICE.

I, Henry A. Frye, attorney for Defendant, Sun Oil Company, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 31st day of *January*, 1963, I served copies of the foregoing Brief of Defendant, Sun Oil Company, in Support of Motion of State of Florida for Leave to Intervene on each of the other parties to this action by depositing copies in a United States post office or mail box, as certified mail with first class postage or air mail postage prepaid, and addressed to:

- (1) Honorable John B. Connally
Governor of Texas
State Capitol
Austin, Texas
- (2) Honorable Waggoner Carr
Attorney General of Texas
Courts Building
Austin 11, Texas
- (3) Honorable Richard J. Hughes
Governor of New Jersey
State Capitol
Trenton, New Jersey
- (4) Honorable Arthur J. Sills
Attorney General of New Jersey
State Capitol
Trenton, New Jersey
- (5) Honorable Farris Bryant
Governor of Florida
State Capitol
Tallahassee, Florida

Proof of Service

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- (6) Honorable Richard W. Ervin
Attorney General of Florida
State Capitol
Tallahassee, Florida
- (7) Honorable William W. Scranton
Governor of Pennsylvania
State Capitol
Harrisburg, Pennsylvania
- (8) Honorable Walter E. Alessandrini
Attorney General of Pennsylvania
State Capitol
Harrisburg, Pennsylvania

It is further certified that copies of the Brief of Defendant, Sun Oil Company, in Support of Motion of State of Florida for Leave to Intervene have been served on the States named in Paragraph VI of Plaintiff's Complaint by depositing copies in a United States post office or mail box, as certified mail with first class postage or air mail postage prepaid and addressed to the Governors and Attorneys General of each of such States.

HENRY A. FRYE,
*Attorney for Defendant,
Sun Oil Company.*